

# EXHIBIT 15

TRANSLATION

THE NATIONAL AUDIT OFFICE OF DENMARK

**Report to the Danish Public Accounts Committee on SKAT's administration of and the Danish Ministry of Taxation's supervision of refund of dividend tax**

February 2016

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The investigation has been requested by the Auditor General, and the National Audit Office of Denmark consequently submits the report to the Danish Public Accounts Committee under sections 8(1) and 17(2) of the Danish Statutory Order on the Audit of the National Accounts etc, see Statutory Order no 101 of 19 January 2012.

The report concerns section 9 of the Danish Finance Act. The Danish Ministry of Taxation and section 38. Direct and indirect taxes.

The following ministers have been in office in the period of the investigation:

Kristian Jensen: August 2004 - February 2010

Troels Lund Poulsen: February 2010 - March 2011

Peter Christensen: March 2011 - October 2011

Thor Möger Pedersen: October 2011 - October 2012

Holger K. Nielsen: October 2012 - December 2013

Jonas Dahl: December 2013 - February 2014

Morten Østergaard: February 2014 - September 2014

Benny Engelbrecht: September 2014 - June 2015

Karsten Lauritzen: June 2015 –

The draft report was presented to the Danish Ministry of Taxation whose comments are given in the report.

## **1. INTRODUCTION AND CONCLUSION**

### **1.1 Objective and conclusion**

1. The subject of this report is SKAT's administration of and the Ministry of Taxation's supervision of reimbursement of dividend tax in the period 1 January 2010 - 5 August 2015 which the Public Accounts Committee asked the National Audit Office of Denmark to review in September 2015. The request was made because of the assumed fraud in connection with reimbursement of dividend tax in the amount of DKK 6.2 billion that SKAT reported to the Danish State Prosecutor for Serious Economic and International Crime ("SØIK") on 24 August 2015. SKAT has subsequently reported assumed fraud of an additional DKK 2.9 billion, and according to the Ministry of Taxation it is likely that the result of the current review of the area will be that further fraud has been committed.

2. The objective of the investigation is to assess whether SKAT's administration of the reimbursement of dividend tax and the Ministry of Taxation's supervision of the reimbursement of dividend tax have been

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satisfactory. The National Audit Office of Denmark has therefore analysed:

- whether SKAT had sufficient internal controls
- whether the Ministry of Taxation responded to the information that it received through its usual supervision, and whether the Ministry reacted to other indications of problems with the reimbursement of dividend tax.

The National Audit Office of Denmark has also analysed whether SKAT has determined the full extent of the assumed fraud in connection with the reimbursement of dividend tax.

***Reimbursement of dividend tax***

*In the period of the investigation foreign shareholders were able to claim back dividend tax through two programmes: the form programme and the bank programme.*

*When claiming back dividend tax through the form programme, the shareholder is to submit a filled-in form to SKAT.*

*The bank programme that SKAT terminated in September 2015 was an agreement between SKAT and three banks that made it possible for the three banks to ask SKAT for reimbursement on behalf of foreign shareholders.*

**CONCLUSION**

It is the National Audit Office of Denmark's conclusion that SKAT's administration of and the Ministry of Taxation's supervision of the reimbursement of dividend tax have been very unacceptable. SKAT's checks of the reimbursements of dividend tax and the Ministry of Taxation's supervision of the area were extremely inadequate.

So far, SKAT has reported assumed fraud of DKK 9.1 billion. However, the Ministry of Taxation has announced that it is likely that SKAT's current examination of the remaining payments of DKK 5.1 billion in the period when the assumed fraud was committed through the form programme will uncover additional assumed fraud.

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Both SKAT and the Ministry of Taxation knew at least since 2010 that there were problems with the reimbursement of dividend tax. Despite this, attention was only drawn to the assumed fraud in connection with the reimbursement of dividend tax because SKAT received information from the public. Nothing in the National Audit Office of Denmark's investigation suggests that without such information SKAT or the Ministry of Taxation would have reacted to the significant increase in the reimbursement of dividend tax from DKK 0.68 billion for all of 2010 to DKK 9.3 billion in the first seven months of 2015, the equivalent of an increase of approximately 1,300%. On the contrary, SKAT was in the process of training new employees to process the increasing number of requests for reimbursement when SKAT received information from the public about the assumed fraud.

In the period when the assumed fraud was committed SKAT reimbursed dividend tax in the amount of DKK 14.2 billion through the form programme. The reimbursement was made on a completely inadequate basis and SKAT did not check completely basic information in the requests, for example the ownership of the shares and whether the applicant's dividend tax had been withheld.

In the same period SKAT reimbursed dividend tax in the amount of DKK 5.4 billion through the bank programme where SKAT had delegated control powers and a duty of control to three banks without, according to its own assessment, any statutory authority. In the autumn of 2015 SKAT found that the bank programme was not legal and consequently terminated the agreement with the three banks at the end of September 2015. When the bank programme existed, SKAT did not check whether the three banks had carried out the delegated regulatory task. SKAT stated that the reimbursement through the bank programme would be analysed to assess whether there was any risk of fraud and consequently a need for a detailed control of the basis of the reimbursement.

SKAT reimbursed dividend tax of DKK 3.2 billion after the date when SKAT received information from the public of the assumed fraud and until the reimbursement was suspended. The Ministry of Taxation announced that based on the information which came to light during the summer of 2015 SKAT only had the necessary basis for stopping the reimbursement on 6 August 2015. The National Audit Office of Denmark establishes that when SKAT received information from the public of the assumed fraud it knew that the number of requests and the total reimbursement amount had increased significantly and SKAT also knew that the internal controls were inadequate. The National Audit Office of Denmark finds that already when SKAT received the information from the public SKAT should have looked into the area more closely before making any further reimbursements.

The Ministry of Taxation's supervision did not in reality respond to the development in the dividend tax, including the reimbursements, as the Ministry did not react to the fluctuations in the reimbursements of dividend tax that were brought to the Ministry's attention several times in connection with the monthly approvals of accounts from SKAT, for example that the reimbursements of dividend tax were increasing



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and that the payments in a month in 2015 had increased by 200% compared to the same month the year before. In connection with its approvals of the Ministry's monthly lists of income to the Danish Fiscal Affairs Committee and the Finance Committee of the Danish Parliament the Ministry of Taxation did not take a position on and react to for example the negative development in the net income from dividend tax either. Moreover, the Ministry of Taxation did not react to several indications of problems with the reimbursements of dividend tax that the Ministry received.

In summary, the National Audit Office of Denmark establishes that the Ministry of Taxation's supervision was fragmented and passive. The Ministry of Taxation did not compare the information that the Ministry received as part of its ordinary supervision with the other indications of problems with the reimbursements of dividend tax that the Ministry received regularly through the years. If the Ministry of Taxation's supervision had been more proactive and it had compared the information that it received from different sources, the supervision would have called attention to the need for a detailed analysis of the area. The National Audit Office of Denmark's investigation shows that very simple analyses of the development in the reimbursements of dividend tax would have pointed to problems in the area that should have resulted in a closer look at the area.

## 1.2 Background

3. On 24 August 2015, SKAT notified SØIK of assumed fraud in connection with reimbursement of dividend tax in the amount of DKK 6.2 billion. SKAT subsequently notified SØIK of assumed further fraud in the amount of DKK 2.9 billion. As a consequence, the assumed fraud in connection with the reimbursement of dividend tax has currently been calculated to amount to DKK 9.1 billion and according to SKAT the fraud was committed in the period 1 January 2012 - 5 August 2015. According to an analysis by the Internal Audit of the Danish Ministry of Taxation (SIR) from 2015, the assumed fraud was committed by assumed foreign fraudsters receiving reimbursements of dividend tax by pretending to hold Danish shares in respect of which dividend tax had been withheld. The Minister for Taxation announced in connection with the notifications to SØIK that the matter had not yet been completely uncovered and that as a consequence it could not be ruled out that SKAT would notify SØIK of further fraud. SKAT's uncovering of the assumed fraud was expected to be completed before the 2016 summer holidays.

*SIR's analysis of SKAT's administration of dividend tax and the reimbursements of dividend tax from September 2015 is an internal investigation into the reasons for the assumed fraud. The investigation was ordered by the Ministry of Taxation because of SKAT's first notification to SØIK of assumed fraud.*

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*SIR audits the Ministry of Taxation's entities according to an agreement between the Ministry of Taxation and the National Audit Office of Denmark under section 9 of the Danish Statutory Order on the Audit of the National Accounts etc. SIR reports to the Permanent Secretary of the Ministry of Taxation.*

***Double taxation treaty***

*In general, dividend tax is reimbursed to shareholders in countries with which Denmark has a double taxation treaty. The various double taxation treaties determine the dividend tax that the shareholder is to pay in Denmark and in its home country. For shareholders resident in countries that have a double taxation treaty with Denmark it means that the foreign recipient of Danish dividend tax may ask SKAT for reimbursement of the withheld dividend tax in whole or in part, depending on the wording of the double taxation treaty.*

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4. Figure 1 shows the procedure for reimbursement of dividend tax.

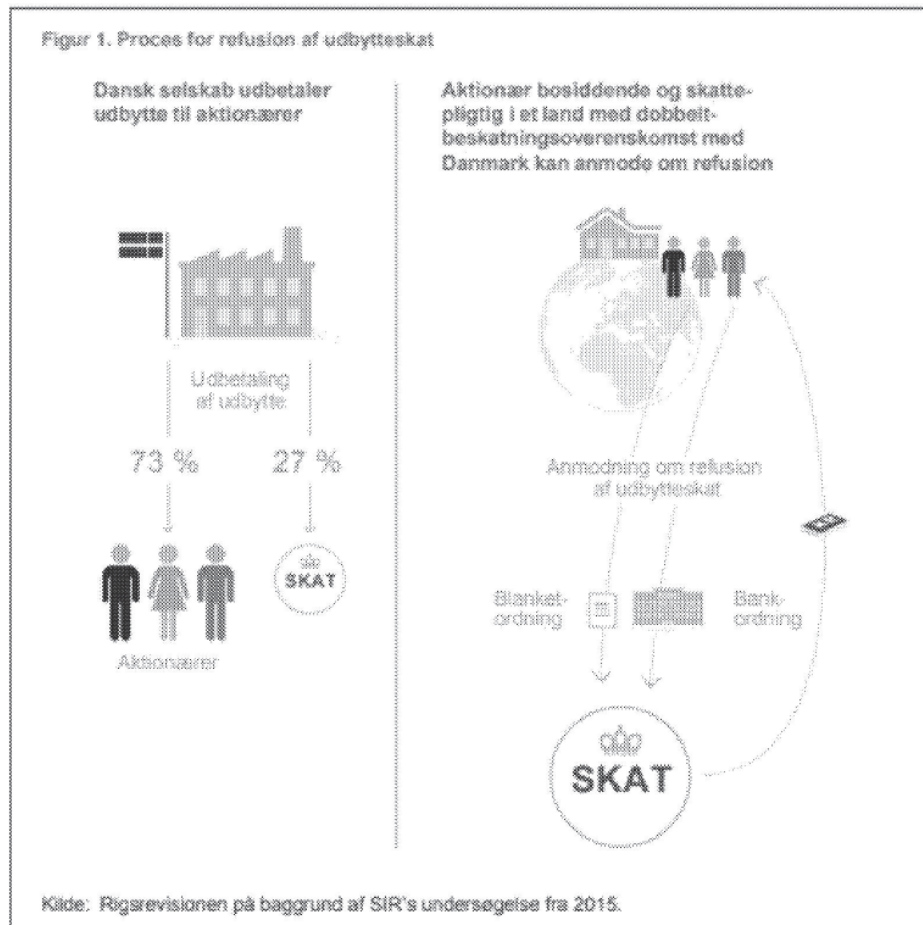


Figure 1 shows that when a Danish company distributes dividend to its shareholders, the company generally pays dividend tax of 27% to SKAT. A number of countries have a double taxation treaty with Denmark which means that foreign shareholders may be entitled to reimbursement of the dividend tax in whole or in part. In the period of the investigation shareholders from countries with a double taxation treaty have been able to ask SKAT for reimbursement of the paid excess dividend tax through the form programme or the bank programme.

5. It appears from SIR's analysis from 2015 that the fraud was assumed to have been committed through the form programme where assumed fraudsters pretended to receive dividend from Danish companies on



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which dividend tax had been withheld. The assumed fraudsters consequently asked SKAT for reimbursement of dividend tax on shares that they had never held, which meant that they received reimbursements of dividend tax which they had never paid.

### 1.3 Audit criteria, method and delimitation

#### Audit criteria

6. The Danish Public Accounts Committee asked us to look into five specific issues, see Appendix 1. In October 2015, the National Audit Office of Denmark described in a memorandum to the Danish Public Accounts Committee how we would plan the investigation and answer the request.

The objective of the investigation is to assess whether SKAT's administration of the reimbursement of dividend tax and the Ministry of Taxation's supervision of the reimbursement of dividend tax were satisfactory.

7. The National Audit Office of Denmark has investigated whether SKAT's administration of reimbursement of dividend tax was satisfactory. In that connection we have investigated whether SKAT's internal controls, including the data used and the system support regarding the reimbursement of dividend tax, were adequate to check the requests for reimbursements from abroad. Our basis is that adequate controls means procedures written down or otherwise established, verification of the information on which the reimbursement was based, adequate system support, clear division of responsibilities, supervision of the area and follow-up on critical audit reports and information from the public.

8. The National Audit Office of Denmark has also investigated whether the Ministry of Taxation's supervision of SKAT's administration of reimbursement of dividend tax was adequate. Our basis is that as part of its ordinary supervision the Ministry of Taxation has the overall responsibility of managing and supervising SKAT. The tasks that the Ministry of Taxation carries out in the accounts area as the responsible authority for SKAT, among others, are described in "Ministry instructions for the Ministry of Taxation" (in force from January 2013). According to the instructions, the Ministry of Taxation is to monitor the income from direct and indirect taxes as part of its ordinary supervision. It is written that the Ministry of Taxation is to monitor whether the income is reasonable.

Our basis has also been that satisfactory supervision includes that the Ministry of Taxation reacted to critical audit reports and took a position on other information indicating problems or risks in a specific area. According to the Ministry Instructions, SKAT's administration of expenses and income must be planned considering the specific situation, ie materiality and risk, as well as the amount and the type of the various income and expenses. It is also written that as the responsible authority the Ministry of

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Taxation is responsible for making sure that the administration within the group of the Ministry of Taxation is adequate. If the Ministry of Taxation knows of an area involving risk, the Ministry should thus make sure that there are the resources and skills for effective supervision until the issues have been rectified. Our basis has also been that the Ministry of Taxation obtains knowledge of SKAT's administration to an extent that the Ministry is able to exercise its overall management and supervision responsibility for SKAT.

In its group management strategy for 2014-2017 the Ministry of Taxation itself identified SKAT as an authority with a need for extended supervision and management, one of the reasons being the many identified risks that can have very serious consequences and also the great complexity of the performance of tasks. It also appears from the National Audit Office of Denmark's report to the Danish Public Accounts Committee on the Ministry of Taxation's management control that after the establishment of the department of the Ministry in 2013 the Ministry of Taxation identified SKAT as an area where there is a need for extended supervision because of great risks.

The Ministry of Taxation has stated that on the one hand the National Audit Office of Denmark takes into account that the Ministry has the overall management and supervision responsibility for SKAT and on the other hand that the Ministry should supervise SKAT very closely. The Ministry of Taxation does not agree with the latter premise. The Ministry of Taxation adds that the Ministry's job is to exercise supervision ensuring adequate financial and substantive management within the framework determined by politicians, that the risk exposure of SKAT has been updated and that internal management etc has been established ensuring any identified risks are acted on.

The National Audit Office of Denmark generally agrees with the Ministry of Taxation's definition of supervision and does not find that this definition is in conflict with the audit criteria and the conclusions of the investigation. The National Audit Office of Denmark's basis is not that the Ministry of Taxation must exercise very close supervision of all SKAT's individual areas, but that the Ministry of Taxation is obliged to follow up on issues in each area in SKAT that the Ministry learns is a problem area. The National Audit Office of Denmark's basis is consequently that the Ministry of Taxation must respond to and compare the information that the Ministry receives through its ordinary supervision with any other indications of problems that the Ministry receives.

9. The Ministry of Taxation has stated that the department of the Ministry (see paragraph 8) has decided to exercise extended supervision of SKAT. However, the Ministry of Taxation does not see this supervision as very close supervision but supervision where the department of the Ministry acts more actively than in a "normal situation" to ensure that something is being done to solve the structural challenges of SKAT's administration of reimbursement of dividend tax, for example.

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The Ministry of Taxation has also stated that it finds that the Ministry has very much taken on the role of exercising close supervision of SKAT by, for example, conducting a rotation analysis of the department *Betaling og Regnskab* (payments and accounts). That it takes time to implement a rotation analysis does not naturally lead, according to the Ministry of Taxation, to the Ministry also having to make a more detailed specification of the current work processes. The National Audit Office of Denmark finds that it is positive that the Ministry of Taxation has conducted a rotation analysis. The National Audit Office of Denmark also finds that such an initiative has a long-term perspective, but the Ministry of Taxation's supervision also includes an obligation to take a position and act on information and indications of problems that should be solved in the short term.

10. We have investigated whether SKAT has calculated the full extent of the assumed fraud in connection with the reimbursements of dividend tax in the period 1 January 2012 - 5 August 2015 when SKAT assumes that the fraud was committed.

11. In its response the Ministry of Taxation has stated that the National Audit Office of Denmark seems to assess the matter based on the current knowledge and has stated that this is also reflected in the National Audit Office of Denmark having received the same audit reports from SIR as the department of the Ministry during the period of the investigation without any stronger warning of the risk than the warning given.

The National Audit Office of Denmark notes in this connection that the Ministry of Taxation has the general management and supervision responsibility for SKAT which entails that the Ministry must be updated on and react to critical audit reports indicating problems or risks in the area, see paragraph 8.

The National Audit Office of Denmark's auditors' report from 2013 covers all the Ministry of Taxation's accounts and is based on an assessment of the risk and materiality in respect of all the accounts. In the auditors' report the National Audit Office of Denmark has specifically referred to SIR's audit report on dividend tax from 2013. The National Audit Office of Denmark's work is based on SIR's work and has repeatedly followed up on questions, through SIR, about lack of controls in the area of dividend tax.

**Method**

12. The investigation is based on a review of SIR's analysis from September 2015 of SKAT's administration of dividend tax and reimbursements of dividend tax. Selected results from the analysis have been included in the report. The National Audit Office of Denmark's annual audit and IT audit of the area of dividend tax for the financial year 2015 have also been included. As have the material and audit reports from SIR.



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Moreover, the investigation is based on a review of written material from SKAT and the Ministry of Taxation, including reports, minutes of meetings, the Ministry of Taxation's monthly income lists to the Danish Fiscal Affairs Committee and the Finance Committee of the Danish Parliament and SKAT's annual approvals of accounts. Finally, we have held meetings with SKAT, the Ministry of Taxation and SØIK.

**Unitary organisation**

*It is stipulated in section 1 of Statutory Order no 1438 of 14 December 2009: "The duties to be carried out by the customs and tax administration under section 1 of the Tax Administration Act are carried out by the Ministry of Taxation. The designation SKAT may still be used when carrying out these duties."*

In the period 2010-2012 the department of the Ministry of Taxation and SKAT were a unitary organisation. The Ministry of Taxation consisted of the group centre and SKAT. The permanent secretary was thus the senior administrative officer of the group centre that was responsible for the central operation, development and management tasks of the unitary organisation. On 1 January 2013, SKAT was hived off into an independent agency under the department of the Ministry of Taxation. This is why in the investigation the National Audit Office of Denmark only deals with SKAT's follow-up on SIR's audit report from 2013 whereas SIR's audit report from 2010 has only been dealt with in paragraph 2.3 on the Ministry of Taxation's supervision.

13. The report includes a number of analyses of the development in the area of dividend tax in the period 1 January 2010 - 5 August 2015. The Ministry of Taxation has had objections to the National Audit Office of Denmark's delimitation of period and the method of projection. These objections and the National Audit Office of Denmark's comments in this regard are included in appendix 2

The audit was made in accordance with generally accepted public auditing standards, see box 1.

**BOX 1. GENERALLY ACCEPTED PUBLIC AUDITING STANDARDS**

Generally accepted public auditing standards are based on the fundamental auditing standards in the National Audit Office of Denmark's Fundamental Principles of Public Sector Auditing for Supreme Audit Institutions (ISSAI 100-999).

**Delimitation**

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14. Because of the Danish Public Accounts Committee's request, the investigation covers the period 1 January 2010 - 5 August 2015. On 6 August 2015, SKAT suspended the reimbursement of dividend tax. The fraud, which is assumed to have been committed in the period 1 January 2012 - 5 August 2015, was calculated as at 13 November 2015 when SKAT made the second notification to SØIK about assumed fraud of an additional DKK 2.9 billion.

15. The report was submitted to SØIK for consultation and at SØIK's request some information has been omitted from the report because of the investigations. The National Audit Office of Denmark has assessed that the omitted information has not affected the principal conclusions of the investigation. Because of SØIK's investigations, the National Audit Office of Denmark has not been able to communicate the information that SKAT received from the public and how SKAT and the Ministry of Taxation treated this information of assumed fraud. It means that the National Audit Office of Denmark has not been able either to communicate how SKAT calculated the assumed fraud of so far DKK 9.1 billion. The consequence is that it has not been possible to answer the Danish Public Accounts Committee's request in full.

16. The subject of the investigation is SKAT's administration of and the Ministry of Taxation's supervision of reimbursement of dividend tax in the period 1 January 2010 - 5 August 2015. The investigation does not cover the VP programme which is a net method of settlement of dividend tax where the final dividend percentage is withheld, ie it is not possible to subsequently claim back dividend tax. Therefore, the investigation does not include an analysis of SKAT's control of the VP programme either. SKAT has assessed that the VP programme did not have the required statutory authority and consequently terminated the programme in November 2015.

17. The Danish Public Accounts Committee's request and indication of where in the report the subjects are dealt with can be found in Appendix 1. Appendix 2 contains a description of the methods used in the investigation. Appendix 3 contains a glossary explaining selected terms and concepts.

## **2. ASSUMED FRAUD IN CONNECTION WITH REIMBURSEMENT OF DIVIDEND TAX**

18. The National Audit Office of Denmark has analysed SKAT's calculation of the assumed fraud in connection with reimbursement of dividend tax. We have also analysed SKAT's administration of the reimbursement of dividend tax, including SKAT's control of the reimbursements. Finally, we have analysed the Ministry of Taxation's supervision of the area, including whether the Ministry of Taxation responded to the information that the Ministry received through its usual supervision and whether the Ministry reacted to the indications of problems in respect of the reimbursements of dividend tax.

19. In the period of the investigation foreign shareholders were able to claim back dividend tax through two programmes: the form programme and the bank programme.



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In the form programme foreign shareholders submit a filled-in form to SKAT to claim back dividend tax. The form is available on SKAT's website. The shareholder fills in the form with information about the amounts claimed back as well as the shareholder's bank information and address. The shareholder is also to enclose appendices with information about the ownership of the shares and the distributed dividend as well as a certificate from the tax authority in the shareholder's home country confirming that the shareholder is liable to pay tax in the country in question.

The bank programme that SKAT terminated in September 2015 was an agreement entered into between SKAT and three banks according to which the three banks could ask SKAT for reimbursement of dividend tax on behalf of foreign shareholders. A foreign bank that kept Danish shares in a custody account submitted a request for reimbursements in respect of all the Danish shares to one of the three banks. The bank that handled the request then submitted a request for all the reimbursements to SKAT in a spreadsheet that contained a calculation of the total amount for which dividend tax was claimed back. SKAT reimbursed the dividend tax to the three banks based on these requests and the three banks passed on the reimbursements to the foreign banks.

## **2.1 SKAT's calculation of the assumed fraud**

20. The National Audit Office of Denmark has also analysed whether SKAT calculated the full extent of the assumed fraud in connection with the reimbursements of dividend tax in the period 1 January 2012 - 5 August 2015 when SKAT assumes that the fraud was committed.

21. SKAT became aware of the assumed fraud after having received information of the fraud from the public, and because of the information SKAT suspended the reimbursements of dividend tax on 6 August 2015.

In a press release in connection with the first notification to SØIK of 24 August 2015 SKAT wrote that it had received a total of 2,120 requests for reimbursements of dividend tax that are assumed to be linked to the fraud. The requests were received in the period 1 January 2012 - 5 August 2015 and they amounted to a total of DKK 6.2 billion.

In November 2015, SKAT subsequently notified SØIK of assumed further fraud of DKK 2.9 billion. The second notification to SØIK is confidential because of SØIK's investigations.

22. Figure 2 gives an overview of the reimbursements of dividend tax through the form programme and the bank programme.

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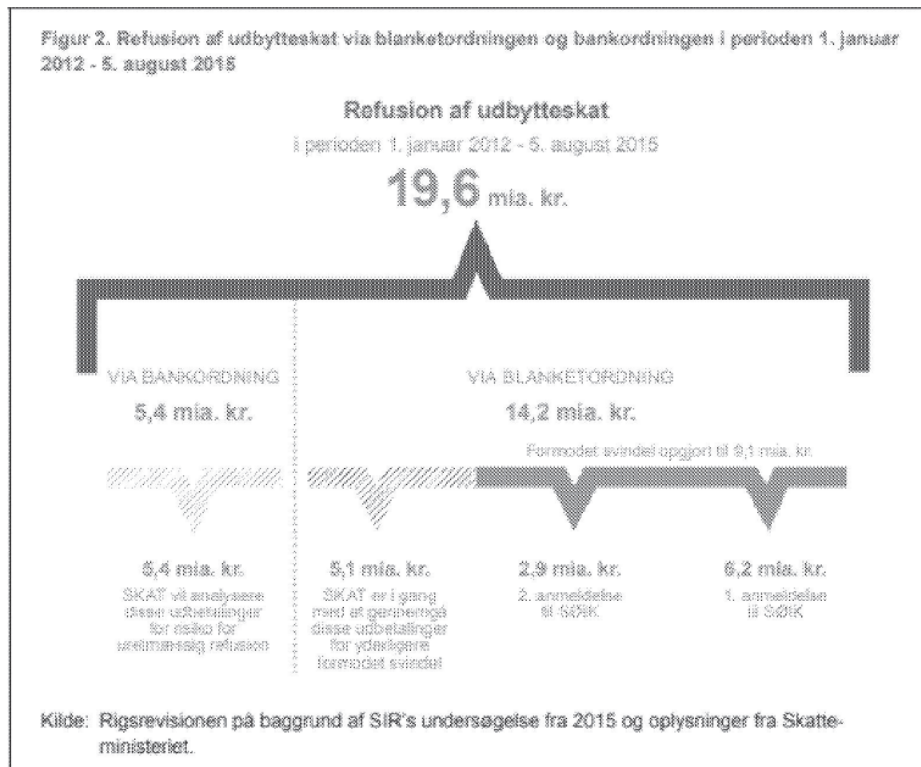


Figure 2 shows that in the period 1 January 2012 - 5 August 2015 dividend tax of DKK 19.6 billion in total was reimbursed of which DKK 14.2 billion was reimbursed through the form programme and DKK 5.4 billion through the bank programme.

For the time being SKAT has calculated the assumed fraud through the form programme to amount to DKK 9.1 billion, ie approximately two-thirds of the total amount that was reimbursed in the period through the form programme. SKAT is in the process of analysing the remaining DKK 5.1 billion that was reimbursed through the form programme for the purpose of uncovering assumed further fraud. The Ministry of Taxation has announced that it is expected that the analysis will uncover assumed further fraud. It is expected that the analysis will be completed before the 2016 summer holidays.

The Ministry of Taxation has announced that in the spring of 2016 an analysis will be carried out of the reimbursements through the bank programme. The analysis is to uncover whether the reimbursements through the bank programme have links to the assumed fraud through the bank programme and whether there is any risk of other types of wrongful reimbursements. SKAT has announced that a detailed control

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of the basis of these reimbursements will be carried out if the analysis uncovers such issues. The Ministry of Taxation has also announced that it cannot be ruled out that fraud has been committed through the bank programme.

**Results**

23. The National Audit Office of Denmark's investigation shows that so far SKAT has reported assumed fraud of DKK 9.1 billion out of the DKK 14.2 billion that was reimbursed through the form programme in the period 1 January 2012 - 5 August 2015. SKAT is in the process of going through the remaining DKK 5.1 billion that was reimbursed through the form programme. The Ministry of Taxation has announced that it is likely that the analysis will uncover assumed further fraud in addition to the DKK 9.1 billion that has been notified to SØIK so far.

At the beginning of 2016 the Ministry of Taxation will carry out an analysis of the reimbursements through the bank programme which is to uncover whether there is any risk of wrongful reimbursements. If the analysis uncovers such issues, SKAT will carry out a detailed control of the basis of such reimbursements. The Ministry of Taxation has announced that it cannot be ruled out that fraud has been committed through the bank programme.

**2.2 SKAT's administration of reimbursement of dividend tax**

24. The National Audit Office of Denmark has investigated whether SKAT's administration of reimbursement of dividend tax was satisfactory. We have reviewed SKAT's internal controls in that connection. Our basis is that adequate controls means procedures written down or otherwise established, verification of the information on which the reimbursement was based, adequate system support, clear division of responsibilities, supervision of the area and follow-up on critical audit reports and other indications of problems.

25. SKAT and the Ministry of Taxation have subsequently said that they find it very serious and deeply regrettable that fraud could be committed to the demonstrated extent. The Ministry of Taxation adds that with the knowledge of the area and the relating risk that SKAT and the Ministry of Taxation have today it is a fact that the control of the reimbursement of dividend tax should have been planned differently. The Ministry of Taxation adds that the fact that fraud is possible is a result of the risk-based approach chosen for the Danish direct and indirect tax model where the basis is that you trust that citizens and businesses generally pay the correct tax. In that connection the National Audit Office of Denmark refers to a report from 2011 by the panel of economic advisors (Dansk Økonomi, spring 2011) in which it is written that it is not the lack of wanting to commit fraud, but primarily because it is difficult to commit fraud that keeps the tax fraud level in Denmark down



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26. After SKAT's first notification to SØIK of assumed fraud the Ministry of Taxation launched an internal investigation into the causes of the assumed fraud. SIR carried out the analysis. We have included the results from the internal analysis in this paragraph. Box 2 contains extracts from the analysis.

**BOX 2. THE REASONS FOR THE CONTROL FAILINGS ACCORDING TO SIR'S ANALYSIS****Internal controls**

- SKAT's routines for approving the reimbursement requests and the subsequent payment included an assessment of whether the applications for reimbursement were accompanied by the required documentation and a recalculation of the reimbursement amount to verify whether the amount had been calculated correctly under the relevant double taxation treaty.
- To a lesser extent SKAT assessed the fluctuations in the amounts of the reimbursements requests and identified the requests for reimbursement submitted by new, unknown intermediaries.
- SKAT verified to a limited extent whether the requests for reimbursement could be traced back to a shareholding and whether a request for reimbursement could be traced back to prior withholding of dividend tax.
- SKAT's follow-up on the accounting data in connection with the periodical approvals of accounts was inadequate. The interim financial statements that include dividend tax and reimbursement of dividend tax were approved with an unqualified opinion. SIR found that the periodical approvals of the accounts was not based on any systematic analytical verification of the accounting figures.

**System support**

- SKAT's IT systems do not contain any information about the ownership of shares in omnibus accounts.
- The registrations in the IT systems provide inadequate underlying data to carry out effective basic checks in connection with requests for reimbursement of dividend tax.

**Division of responsibility**

- Four areas in SKAT were responsible for the dividend tax process.
- The organisational structure did not determine the overall process ownership which resulted in an increased risk of inadequate supervision and assessment of the area, including an ongoing assessment of the control of the procedures.

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SIR also concluded:

- That by an amendment to legislation in 2009 which resulted in two statutory orders that came into effect from 2012 (unlisted shares) and 2013 (unlisted shares), it became possible for SKAT to harmonise the deadlines for the companies' distribution of dividend and reporting of recipients of dividend. The legislative amendment made it possible for SKAT to compare the request for reimbursement with the received dividend and withheld dividend tax. SKAT has not yet implemented the reconciliation procedures for listed companies made possible in 2013.
- That SKAT did not follow up on audit reports and implement recommendations from SIR to ensure that dividend tax was not wrongfully reimbursed.

Source: SIR's analysis from 2015

*An omnibus account is typically owned by a foreign bank and it contains Danish shares held by foreign shareholders. In such situations SKAT's IT systems do not contain any information about the individual holder of the shares, but only information to identify the owner of the omnibus account.*

#### **Checks of requests for reimbursement through the form programme**

27. The DKK 9.1 billion that the assumed fraud amounts to so far was paid through the so-called form programme where the applicant submits a filled-out form to SKAT together with documentation when requesting reimbursement.

28. According to SIR's analysis, SKAT only checked whether the requests through the form programme were accompanied by the required documentation and whether the reimbursement amount applied for had been calculated correctly according to the relevant double taxation treaty. SIR's analysis shows that SKAT only checked to a limited extent whether the recipient of dividend held the shares when the distribution was made and whether dividend tax had been withheld before the payment of the reimbursement. SIR's analysis thus shows that SKAT paid the reimbursement amount applied for if the application had been filled out correctly and the required documentation had been submitted.

29. The National Audit Office of Denmark's investigation shows that in connection with an application for reimbursement through the form programme SKAT received a filled-out form accompanied by very different documentation of the applicant being entitled to reimbursement. The type of documentation of



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the applicant's claim varied. For example, the documentation of ownership was not always a statement of account, but was instead prepared by the applicant itself. The ancillary text on the form does not specify the documentation required by SKAT. Moreover, SKAT had not drafted any guidelines to the SKAT employee about the type of documentation that should be submitted.

When going through SKAT's procedures the National Audit Office of Denmark established that in connection with the processing of the requests for reimbursement through the form programme SKAT did not have important key controls in place. One example of a lack of control is that SKAT did not verify whether the received form had been stamped by a competent authority so that it could be verified that the applicant was a taxpayer in the relevant country and thus subject to the double taxation treaty. Moreover, SKAT did not verify the shareholdings and whether the companies in question had distributed dividend to the applicant.

Box 3 sums up what SKAT did do in connection with the requests for reimbursement of dividend tax through the form programme.

**BOX 3. SKAT'S PROCESSING OF REQUESTS FOR REIMBURSEMENT THROUGH THE FORM PROGRAMME**

SKAT made the following checks when receiving a request for reimbursement of dividend tax:

- whether the required appendices had been enclosed
- whether there was a stamp from a foreign tax authority
- whether there was a double taxation treaty with the applicant's home country, and whether the amount applied for had been calculated correctly according to the double taxation treaty.

30. Box 4 contains examples of information that SKAT did not check, but which the National Audit Office of Denmark finds would be relevant to check when reimbursing dividend tax through the form programme.

**BOX 4. EXAMPLES OF INFORMATION THAT SKAT DID NOT CHECK WHEN REIMBURSING DIVIDEND TAX**

- whether the company had distributed dividend to the applicant in question
- whether dividend tax had been withheld from the applicant
- the authenticity of the appendices enclosed with the application, including information of the ownership of shares
- the authenticity of the stamp from the foreign tax authority.

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31. The National Audit Office of Denmark establishes that SKAT reimbursed dividend tax without checking the validity of the information that it received. SKAT did not establish and write down processes for checking reimbursement of dividend tax. The National Audit Office of Denmark finds that the absence of such procedures increases the risk of inadequate administration.

**Checks of requests for reimbursement through the bank programme**

32. According to SIR's analysis, SKAT delegated the verification to three banks. SKAT depended on the three banks having established effective controls in the area. SIR found that SKAT did not follow up on whether the controls were effective. SIR's analysis also showed that SKAT did not transfer information from the requests for reimbursement through the bank programme to the internal IT system, and the consequence was that it was not possible for SKAT to make a comparison with any recipients of dividend that the companies had reported to SKAT. SIR concluded that it could not be ruled out that the recipient of dividend that received reimbursement through the bank programme also applied for reimbursement through the form programme.

33. The National Audit Office of Denmark's investigation also shows that SKAT did not check the contents of the requests for reimbursement that SKAT received from the three banks in the bank programme just as SKAT did not check whether dividend had been distributed on the shares in respect of which dividend tax was claimed back.

According to the agreement with SKAT, the three banks were only to check whether dividend had been paid to the foreign bank and that dividend tax had been withheld. According to the agreement, SKAT did not demand that together with the requests for reimbursement from foreign banks the three banks in the bank programme were to receive documentation of the ownership of the shares or of the shareholder being liable to pay tax in the country in question.

SKAT did not check whether the three banks in the bank programme carried out the agreed checks. SKAT made the reimbursements solely on the basis of the total calculations submitted by the banks. The three banks passed on the reimbursements to the foreign banks that subsequently made the final payment to the shareholders.

SKAT did not check either whether the applicants that received reimbursement through the bank programme also applied for reimbursement through the form programme, ie whether the withheld dividend was wrongfully reimbursed several times.

34. The National Audit Office of Denmark establishes that when reimbursing dividend tax through the bank programme SKAT did not know whether the foreign bank verified the ownership of the shares in

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respect of which reimbursement was requested just as SKAT did not know whether the requested amount had been calculated according to the right double taxation treaty.

35. The Ministry of Taxation has stated that SKAT found that the bank programme could not be deemed to be the requisite legal framework for requests for reimbursement of dividend tax and consequently terminated the agreements with the three banks at the end of September 2015. SKAT's assessment of the programme is that there is no valid representation (the bank acts for the recipients of dividend) and that SKAT cannot delegate its control powers and its duty of control without any statutory authority. The shareholders that used the bank programme have now been asked to use the form programme.

**System support of the controls**

36. SIR's analysis showed that SKAT's IT support of the dividend area was inadequate to carry out effective basis control based on the registered data. A control of the basis included checking whether the request for reimbursement of dividend tax was based on an actual shareholding and whether dividend tax had been withheld.

37. The National Audit Office of Denmark's investigation shows that SKAT's IT system to process dividend tax used mandatory fields to be filled out such as name, address, dividend and date of resolution (regarding the distribution of dividend). With the exception of the requirement that the field "dividend" must contain numbers and that the date fields must observe a specific date format, SKAT did not make any requirements as to the contents of the fields. The result is a risk of non-uniform and incomplete registration of reimbursement of dividend tax to foreign recipients of dividend which undermined the possibility of checking the requests for reimbursement.

38. SKAT's IT system to process dividend tax had a check feature that notified the SKAT employee if, in respect of the specific distributing company, an amount exceeding the total payment of dividend tax was claimed back. The National Audit Office of Denmark's investigation shows that the check feature did not work in respect of some companies from 2013 and until July 2015. In that period SKAT did thus not verify whether there was actually any "cover" of the reimbursed dividend tax in respect of these companies. According to SKAT, no compensating checks of the reimbursements were carried out in this period when the control did not work. SIR's analysis showed examples of SKAT having reimbursed dividend tax in respect of some companies exceeding the tax paid by the company. For example, 111% of the dividend tax paid for one single company was reimbursed in 2014.

39. The National Audit Office of Denmark finds that SKAT's IT support of the control of reimbursement of dividend tax was completely inadequate. The result has been that the input data were not checked and there were examples of more dividend tax having been reimbursed than the dividend tax that the company had paid.



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**Division of responsibility**

40. SIR's analysis showed that four areas were involved in the administration of dividend tax and the reimbursement of dividend tax which meant that there was no overall process ownership in the organisation. According to SIR, this contributed to the supervision of the area being inadequate and that the checks of the reimbursement of dividend tax were not evaluated.

41. The National Audit Office of Denmark's annual audit for the financial year 2015 also shows that in 2015 SKAT did not make sure either that there was a clear and unambiguous division of responsibilities and distribution of tasks between the business areas and the underlying processes. Neither did SKAT have any procedures or internal controls written down or otherwise in place regarding the overall dividend tax process.

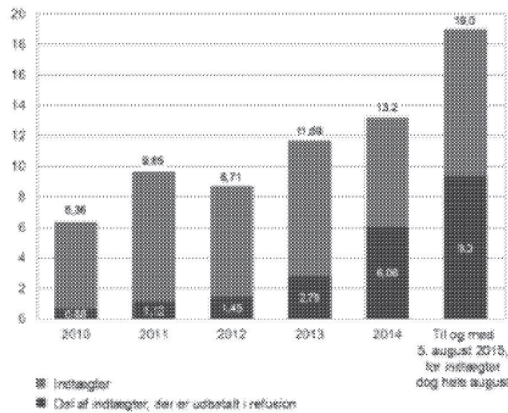
42. The National Audit Office of Denmark's investigation also shows that in 2013 and 2014 SKAT's executive board received performance-related pay for their areas of responsibility whereas individual employees working with the reimbursement of dividend tax received a one-off payment. However, the reasons for performance-related pay and one-off payments are a more general nature and are not based on processing a large number of requests for reimbursement.

**Supervision**

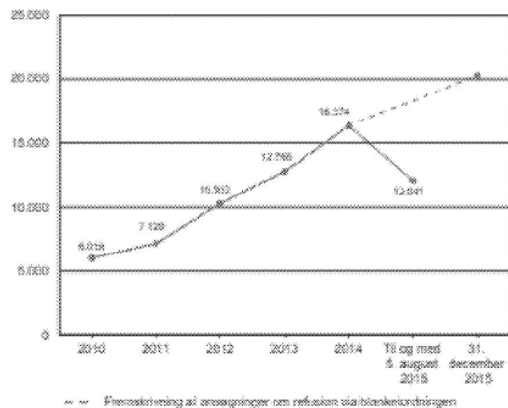
43. The National Audit Office of Denmark's investigation shows that SKAT did not exercise basic supervision as part of the control of reimbursements of dividend tax. The National Audit Office of Denmark finds that basic, simple supervision would have indicated the need for a detailed analysis of the area. Figures 3-6 show the developments in the reimbursements of dividend tax in the period 1 January 2010 - 5 August 2015.

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Figur 3. Udvikling i indtægter og refusion af udbytteskat (Mia. kr.)

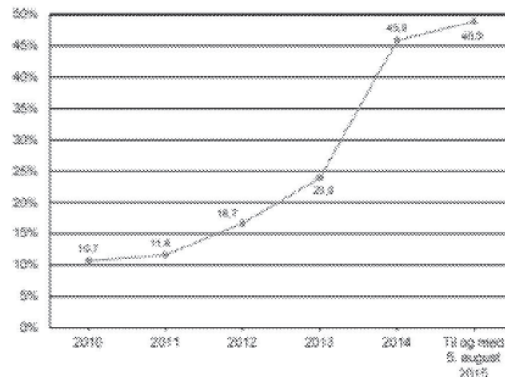


Figur 5. Udvikling i antallet af ansøgninger via blanket-ordningen



Kilde: Rigsrevisionen på baggrund af SIR's undersøgelse fra 2015 og oplysninger fra Skatteministeriet. Fremskrivningen i figur 5 er Rigsrevisionens egen beregning.

Figur 4. Refusionsprocent



Figur 6. Udvikling i gennemsnitligt ansøgt beløb via blanket-ordningen (Kkr.)

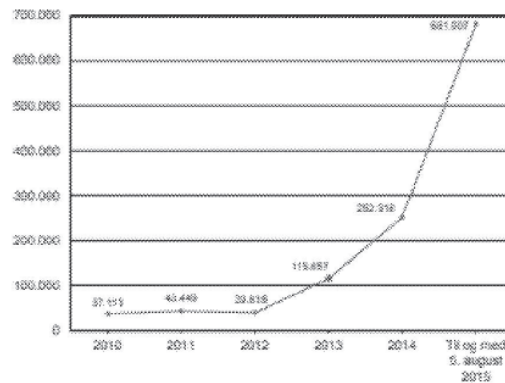


Figure 3 shows that the total reimbursements of dividend tax (both through the bank programme and the form programme) in the period increased from DKK 0.68 billion to DKK 9.3 billion which is equal to an increase of approximately 1,300% whereas the income from dividend tax increased from DKK 6.4 billion to DKK 19 billion in the same period which is equal to an increase of approximately 200%.



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Figure 4 shows that the reimbursement percentage which is the ratio between the income from the dividend tax and the reimbursements of dividend tax increased significantly in the period 1 January 2010 - 5 August 2015. The reimbursement percentage increased by approximately 11% in 2010 to approximately 49% in the period. The reimbursement percentage includes the total reimbursements of dividend tax, ie both the bank programme and the form programme. The figure also shows that in particular from 2013 to 2014 the reimbursement percentage increased significantly from approximately 24% to approximately 46%.

Figure 5 shows that the number of requests for reimbursements of dividend tax through the form programme increased from 6,019 in 2010 to 16,374 in 2014. In the period 1 January 2010 - 5 August 2015 alone 12,041 requests were received. The dotted line is a projection of the development for all of 2015 based on the average number of applications received per day from 1 January to 5 August 2015 which illustrates how the development in the number of applications received through the form programme could have continued if SKAT had not received information from the public about assumed fraud and reacted by suspending the disbursements.

Figure 6 shows that the average amount that the shareholders claimed back through the form programme increased significantly from DKK 37,113 in 2010 to DKK 681,007 in 2015. It is an increase of approximately 1,700%. The National Audit Office of Denmark adds that SKAT's first notification to SØIK covered 2,120 reimbursement payments of DKK 6.2 billion in total, see paragraph 2.1. For these requests it is the equivalent of an average of almost DKK 3 million having been reimbursed for each request and the claimed-back amounts in these requests were thus significantly bigger than the average claimed-back amount in respect of all requests.

44. Based on figures 3-6, the National Audit Office of Denmark finds that very simple analyses of the reimbursements of dividend tax, based on the data that SKAT already had, clearly indicated the need for a thorough analysis of the development in the reimbursements of dividend tax and its causes. However, the National Audit Office of Denmark establishes that not even the big increase in the number of requests in the analysis period made SKAT look into the development in the reimbursements of dividend tax in any detail. In June 2015, SKAT informed SIR that SKAT was in the process of training new employees to process the increasing number of requests for reimbursements of dividend tax.

In this connection the Ministry of Taxation has stated that the National Audit Office of Denmark points out in negative terms that SKAT trained new employees. The Ministry of Taxation adds that objectively SKAT adjusted the resources because of the increased level of activity regarding requests for reimbursements. Moreover, the number of requests included in the fraud is only a small part of the total number of requests. In this connection the National Audit Office of Denmark notes that seen in isolation the National Audit Office of Denmark does not point out in negative terms that SKAT trained new employees.

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But the National Audit Office of Denmark finds that the big increase in the number of applications compared to the significant increase in the total reimbursements should have made SKAT look into the area more closely. The National Audit Office of Denmark has established that SKAT did not carry out such an investigation, but that SKAT trained new employees to be able to process the increasing number of requests without thinking about the underlying reasons.

#### **SKAT following up on SIR's 2013 audit report**

45. The National Audit Office of Denmark's investigation shows that in 2013 SKAT received an audit report from SIR. The report contained eight comments that SIR recommended that SKAT followed up on. The comments have been coloured to indicate their importance. The report contained five red, two yellow and one green comment. In the report SIR recommends that "SKAT protects itself more from wrongful reimbursement of dividend tax". The comment is in yellow, which, according to the report, is a significant weakness that is found to be a problem that should be handled.

SKAT has a procedure for following up on audit reports where in a follow-up protocol SKAT reports the actions that will be taken in SKAT to follow up on the criticism and a deadline for finalising the action. The follow-up protocol is presented to SKAT's executive board before it is sent to the Ministry of Taxation for its information.

46. Table 1 contains extracts from SKAT's follow-up protocols. The extracts show how SKAT followed up on SIR's comment in the audit report from 2013 to protect itself better against wrongful reimbursement of dividend tax.

<b>Table 1. Extract from SKAT's follow-up protocols regarding SKAT's work of protecting itself better against wrongful reimbursement of dividend tax</b>		
Time	Action in SKAT	Deadline
Q2 and Q3 2013	SKAT will clarify whether it is possible to implement further checks. A working group will be established.	31 December 2013
Q4 2013	The working group has started to describe the work and the areas of responsibility. The work in this regard is expected to be finished at the end of January 2014.	30 April 2014

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Q1 2014	SKAT will clarify whether it is possible to implement further checks.	Deadline is postponed to 30 September 2014.
Q2 2014	SKAT will clarify whether it is possible to implement further checks.	Deadline postponed to 30 September 2014.
Q3 2014	SKAT will clarify whether it is possible to implement further checks.	Deadline is postponed to 31 December 2014.
Q4 2014	The procedure for reimbursement of dividend tax is being drafted through SKAT's participation in the OECD project TRACE.	The work relating to the comment comes to an end.

***The OECD project TRACE  
(Treaty Relief and Compliance Enhancement)***

*The object of the project was to set up a system where net withholding of dividend tax is made automatically under the relevant double taxation treaty in connection with the distribution of dividend to foreign shareholders. Reimbursement is not made in connection with net withholding of dividend tax.*

Table 1 shows that in 2013 SKAT acknowledged that there was a need to clarify whether it is possible to implement further checks to protect itself better against wrongful reimbursement of dividend tax. But the deadline for this work was postponed several times before it came to an end because of SKAT's participation in the OECD project TRACE.

47. The National Audit Office of Denmark establishes that the executive board of SKAT approved that the work of improving the checks of the reimbursement of dividend tax was stated as ended in the follow-up protocol at a time when the time schedule had been exceeded by more than one year without SKAT having made any amendments to the existing control system for reimbursement of dividend tax. The work was ended by only referring to the Danish participation in the OECD project TRACE. The Ministry of Taxation has stated that the OECD published a finished TRACE model in February 2013, but the model has not yet been implemented in Denmark or in any other country. Against this background it is